

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KYLE M. PARKS,

Plaintiff,

v.

**Civil Action 2:18-cv-924
Judge James L. Graham
Magistrate Judge Elizabeth P. Deavers**

**SPECIAL AGENT RYAN
SCHEIDERER,**

Defendant.

REPORT AND RECOMMENDATION

On August 21, 2018, Plaintiff Kyle M. Parks, a federal inmate proceeding without the assistance of counsel, commenced this action, but failed to pay the requisite \$400 filing or an application to proceed *in forma pauperis*. (ECF No. 1.) On the same day, the Court issued a Notice of Deficiency, directing Plaintiff to correct this deficiency by either filing the attached motion for leave to proceed *in forma pauperis* or by tendering the required filing fee to the Clerk within thirty (30) days. (ECF No. 3 (enclosing copies of *in forma pauperis* forms, summons forms, Marshal service forms, and a civil cover sheet).)

On September 27, 2018, the Court issued an Order and Second Notice of Deficiency, noting that Plaintiff failed to respond to the first Notice of Deficiency. (ECF No. 4 at 1.) The Court ordered to cure this deficiency by submitting the requisite \$400.00 filing fee or by filing an application for leave to proceed *in forma pauperis*, within thirty (30) days of the date of the Order. (*Id.*) The Court specifically advised Plaintiff that failure to timely comply with the Order would result in a recommendation that this action be dismissed for failure to prosecute. (*Id.*)

More than thirty (30) days have passed since the Court issued the Order (ECF No. 4) and Plaintiff has failed to either pay the full filing fee or to submit an application for leave to proceed *in forma pauperis* despite being warned of the consequences of failing to do so. Accordingly, it is **RECOMMENDED** that Plaintiff's claims be dismissed for failure to prosecute.

PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to de novo review by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g., Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that "failure to object to the magistrate judge's recommendations constituted a waiver of [the defendant's] ability to appeal the district court's ruling"); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court's denial of pretrial motion by failing to timely object to magistrate judge's report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) ("[A] general objection to a magistrate judge's report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal . . .") (citation omitted)).

IT IS SO ORDERED.

Date: November 6, 2018

/s/ Elizabeth A. Preston Deavers
ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE